HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition Nos.17524, 17525 and 18249 of 2005

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Writ Petition No.17524 of 2005

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Between:

Mohd. Moazam Khan and 8 others.

...Petitioners.

And

Government of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration & Urban Development
(Elec.II) Department, Secretariat,
Hyderabad and others.

...Respondents.

Writ Petition No.17525 of 2005

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Between:

Asaduddin Owaisi

... Petitioner.

And

Government of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration & Urban Development
(Elec.II) Department, Secretariat,
Hyderabad and others.

...Respondents.

Writ Petition No.18249 of 2005

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Between:

B.S.Subash Reddy

... Petitioner.

And

Government of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration & Urban Development
(Elec.II) Department, Secretariat,
Hyderabad and others.

...Respondents.

Counsel for the petitioners
In Writ Petition Nos. 17524 and
17525 of 2005: Shri S. Ramachandra Rao, Senior Advocate, assisted by Shri K.R. Prabhakar

Counsel for the petitioner
in Writ Petition No.18249
of 2005: Sri J.Chandraiah for Sri Gokula Rama Rao.

Counsel for the respondents: Sri C.V.Mohan Reddy, Advocate General, assisted by Sri A. Satya Prasad, Special Government Pleader.
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:: O R D E R ::

January 31, 2007

Per G.S. SINGHVI, C.J.

Whether the proposed inclusion of L.B.Nagar, Gaddiannaram, Uppal Kalan, Kapra, Alwal, Qutubullapur,

Malkajgiri, Kukatpally, Serilingampalli, Rajendernagar, Patancheru and Ramachandrapuram Municipalities and Shamshabad, Mamidipalli, Satamarai, Jalapally, Mankhal, Almasguda/ Tukkuguda, Sardarnagar and Ravarala Gram Panchayats located around Hyderabad in the limits of the Municipal Corporation of Hyderabad for the purpose of constituting Greater Hyderabad Municipal Corporation is ultra vires the provisions of Articles 243E, 243P, 243Q, 243U, 243ZF and 371-D of the Constitution of India and violative of Andhra Pradesh Districts (Formation) Act, 1974 is the common question of law, which arises for determination in these petitions filed for striking down Sections 3 and 679-D of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the 1955 Act') and notifications issued by the Government of Andhra Pradesh vide G.O.Ms.Nos.703 and 704, Municipal Administration and Urban Development (Elec.II) Department, dated 20-7-2005. In Writ Petition No.17524 of 2005, the petitioners have also prayed for issue of a mandamus to the respondents to conduct elections to Rajender Nagar Municipality and in all suburban municipalities which are sought to be merged in Greater Hyderabad Municipal Corporation. In Writ Petition No.17525 of 2005 (amended), the petitioner has further prayed for striking down Section 246(1) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the 1994 Act') and Sections 3-A and 62 of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the 1965 Act').

Three of the nine petitioners, who have filed Writ

Petition No.17524 of 2005, are Members of Andhra Pradesh Legislative Assembly, five are Corporators from different wards of the Municipal Corporation of Hyderabad (for short, 'the Corporation') and one is ex-Vice-Chairman of Rajender Nagar Municipality. Writ Petition No.17525 of 2005 has been filed by Sri Asaduddin Owaisi, who has been a Member of the Legislative Assembly and is presently a Member of Parliament from Hyderabad Parliamentary Constituency and Writ Petition No.18249 of 2005 has been filed by Sri B.Subash Reddy, Chairman of Gaddiannaram Municipality, Ranga Reddy District.

For deciding the aforementioned question, it will be useful to briefly notice the background in which the impugned G.Os. have been issued.

The Hyderabad Municipality was first constituted in 1869 with an area of about 55 kms. At that time, the population of Hyderabad was 3.5 lakhs. In 1886, a separate Municipality known as "Chaderghat Municipality" was constituted for the new city area. In 1921, the area of Hyderabad Municipality was extended to about 84 kms. After 10 years, Secunderabad Town Improvement Trust was constituted. Simultaneously, Hyderabad and Chaderghat Municipalities were merged. In 1933, Hyderabad Municipal Act was enacted and the existing municipality was conferred the status of a municipal corporation. In 1937, a separate municipality was constituted with the name "Jubilee Hills Municipality" for the areas of Banjara Hills, Jubilee Hills

etc. In 1945, Secunderabad Municipality was constituted. In 1947, the limits of Secunderabad Municipality was extended by including the adjoining areas. In 1948, the Jubilee Hills Municipality was merged with Hyderabad Municipal Corporation. In 1951, Secunderabad Municipality was upgraded and converted into Corporation. In 1960, the Secunderabad Municipal Corporation was merged with Hyderabad Municipal Corporation.

At present, Hyderabad is the largest city in the State of Andhra Pradesh in terms of the area and population. It has been recognized as a Metropolis and given the status of Mega-City by the Central Government. The expansion and growth of Hyderabad started in the year 1950. After formation of the State of Andhra Pradesh in 1956, Hyderabad was chosen as its capital. In last five decades, there has been rapid industrialization in public as well as private sectors and a large number of educational, research and training institutions have been set up in and around the city of Hyderabad. In addition, there is a very big Army Cantonment in the twin cities of Hyderabad and Secunderabad. In last 15 years, the city has been totally transformed on account of massive development in the field of information technology and bio-technology attracting investments from various parts of the world. Almost all big players in these fields have set up their establishments and units in what is now known as Cyberabad or Hi-Tech city. This has resulted in creation

of huge employment opportunities and people belonging to younger generation have come from different parts of the country and settled in the city of Hyderabad. To cater the demand of housing etc., large scale townships and markets have come up around the city of Hyderabad. The population of Hyderabad Urban Agglomeration increased from 18 lakhs in 1971 to about 57 lakhs as per the Census of 2001. The present estimated population has crossed the figure of 60 lakhs.

With a view to meet the challenges posed by rapid industrialization and increase in population, the Government of Andhra Pradesh took a policy decision in 1999 to include the
areas of certain Gram Panchayats (most of them are now Municipalities), which are contiguous to the city of Hyderabad into the limits of the Municipal Corporation of Hyderabad. Accordingly, G.O.Ms.No.189, dated 20-4-1999 was issued under Section 3 of the 1955 Act and objections/suggestions were invited from the public as well as public representatives. The same was challenged in Writ Petition No.9247 of 1999. By an order dated 28-4-1999, this Court admitted the writ petition and stayed all further proceedings. During the pendency of the writ petition, the State Government withdrew G.O.Ms.NO.189, dated 20-4-1999 and, on that account, the writ petition was disposed of as infructuous.

After a gap of six years, the State Cabinet in its meeting held on 1-7-2005 approved the revised proposal for creation of Greater Hyderabad by including the areas

contiguous to Hyderabad city in the limits of the Municipal Corporation of Hyderabad. For this purpose, G.O.Ms.Nos.703 and 704 dated 20-7-2005 were issued. By the first G.O., the Commissioner of the Municipal Corporation of Hyderabad was asked to place the proposal before the Council and submit its views/objections/suggestions to the government. By the second G.O., notice was given to the members of public under Section 3 (3) of the 1955 Act for inviting objections/ suggestions. Simultaneously, Memo No.12417/Ele.II/2005 dated 20-7-2005 was issued to various municipal bodies under Section 3A(1)(a) of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the 1965 Act') for their abolition and inclusion of their area in the Hyderabad Municipal Corporation. The concerned Municipalities were called upon to communicate their views/objections/ suggestions.

For the sake of convenient reference, the contents of G.O.Ms.No.703, dated 20-7-2005 are reproduced below:

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (ELE.II) DEPARTMENT

G.O.Ms. No. 703 **Dated: 20th July, 2005**

ORDER:

1. Hyderabad is the largest urban agglomeration both in terms of population and area in the State of Andhra Pradesh. It is recognised as a metropolis and given the status of a Mega City by the Central Government. The transformation of Hyderabad as a metropolis began in the late 1950s with the formation of Andhra Pradesh State and Hyderabad becoming its capital. Large scale industrialisation, particularly in the

public sector, took place in the early of 1960s. In the late 1960s and early 1970s a large number of important educational, research and training institutions were set up in and around Hyderabad City. Since mid-1990s, massive developments have been taking place in the areas around Hyderabad City in the field of information technology, bio-technology, sports infrastructure, etc. creating new employment opportunities and thereby, triggering expansion of townships.

2. The growth of Hyderabad has not only been on account of it's being the capital city but also due to it's strategic location, rapid industrialization and availability of suitable lands in plenty in and around the Hyderabad city. Thus, Hyderabad continues to offer great opportunities for expansion and concentration of activities and continues to offer opportunities for increased employment and in manufacturing and support services especially in the tertiary sector. Population of Hyderabad urban agglomeration has been substantially increasing over the last one decade. The massive growth in population has put additional strain on the existing infrastructure within the area of Hyderabad urban agglomeration.

3. The Hyderabad metropolis has several diverse activities such as:

a) *State Capital and Administrative Centre;*
b) *Defence Centre;*
c) *Educational, Research & Institutional Centre;*
d) *Industrial Centre;*
e) *IT Centre;*
f) *Regional Centre of Trade & Commerce;*
g) *Transportation Centre and Air transit hub;*
h) *Health and Medical centre;*
i) *Cultural and Tourism Centre.*

4. The population of the Hyderabad Urban Agglomeration registered an increase of about 216 % in the last 30 years, i.e, it rose from 18 lakhs in 1971 to

about 57 lakhs in 2001, as per the Census. The urban agglomeration area increased from about 200 sq km in 1971 to about 700 sq km. The population of the Hyderabad Urban Agglomeration is expected to increase to 136 lakhs by 2021 with an overall average density of about 200 persons per hectare.

5. This has necessitated the demand for services and also resulted in attendant problems like intensity of land use, densification, pressure on housing, demands on the road network and transportation systems, availability of water and efficiency of the system of disposal of sewage and solid waste. The demand for services have both city-wide as well as local ramifications.

6. The overall city level systems like major road network, water supply, sewerage and drainage system network, urban transport system, environment management system, etc. cannot be done in compartments or locally and need to be tackled in an integrated manner by an appropriate civic management structure with proper planning, resource mobilisation and technical capabilities. The existing separate local bodies are unable to cope up with the above. Therefore there is a need to strengthen the civic administration by reorganizing the existing set up by having a single entity with a clear cut organisational system to meet the challenges thrown up by such fast pace of growth of Hyderabad and its urban spread and to manage in an integrated manner both the metropolitan and community level developmental needs.

7. Keeping in view the above, the Government have decided to constitute the Greater Hyderabad Municipal Corporation by merging the surrounding 12 municipalities and 8 Gram Panchayats around Hyderabad with Municipal Corporation of Hyderabad with a view to:

a) Facilitating improved and high standard of civic services;

b) Providing better civic administrative mechanism;

c) Ensuring better planning and focussed

development of the Mega City;

d) equitable devolution of finances and utilisation of resources;

e) Ensuring uniform enforcement;

f) To make the city internationally competitive with world class infrastructure and services.

8. Hence it is proposed to include the following surrounding 12 municipalities and 8 Gram Panchayats located around Hyderabad in the limits of Municipal Corporation of Hyderabad to constitute the Greater Hyderabad Municipal Corporation:

Municipalities:

1. L.B.Nagar
2. Gaddiannaram
3. Uppal Kalan
4. Kapra
5. Alwal
6. Qutubullapur
7. Malakajgiri
8. Kukatpally
9. Seri Lingampalli
10. Rajendranagar
11. Patancheru
12. Ramachandrapuram

Gram Panchayats:

1) Shamsabad
2) Mamidipalli
3) Satamarai
4) Jalapally
5) Mankhal
6) Almasguda/Tukkuguda
7) Sardarnagar
8) Ravarala

9. Sub-section (2) of section 3 of the Hyderabad Municipal Corporation Act, 1955 empowers the Government to alter the limits of the City by including other areas after consulting with the Hyderabad

Municipal Corporation.

10. Therefore, under sub section (2) of section 3 of Hyderabad Municipal Corporation Act, 1955, the Council of Hyderabad Municipal Corporation are requested to state their views on the above proposal of the Government to include the areas covered by the surrounding 12 Municipalities and 8 Grampanchayats referred to in para 8 above with in the limits of Municipal Corporation of Hyderabad to form Greater Hyderabad Municipal Corporation.

11. The Commissioner, Municipal Corporation of Hyderabad is requested to place the matter before the Council and obtain the views/ objections / suggestions, if any, on the proposal and communicate the same to the Government within a period of 15 days from the date of receipt of this notice. If no views / objections / suggestions are received from the Municipal Corporation of Hyderabad within the above stipulated time, it will be construed that the Municipal Corporation of Hyderabad has no remarks to offer on the proposal of the Government and further action will be taken basing on the material available with the Government.

12. The Commissioner, Hyderabad Municipal Corporation shall publish a copy of this G.O. in the Notice Board of the Municipal Corporation of Hyderabad for information to the Public."

The petitioners have averred that in their capacity as representatives of the public, they have the constitutional and legal right to ventilate the grievances of the people against the creation of Greater Hyderabad Municipal Corporation by including the areas of 12 Municipalities and 8 Gram Panchayats in the Municipal Corporation of Hyderabad. They have challenged the impugned legislative provisions and G.Os. on the

following grounds:

1) The State does not have the legislative competence to either abolish or dissolve a constitutional entity i.e. the Municipality or Gram Panchayat for establishing the proposed Greater Hyderabad Municipal Corporation.

2) The impugned G.Os. are violative of the provisions contained in Part IX and IX-A of the Constitution of India because the same have the effect of abolishing 12 Municipalities and 8 Gram Panchayats, which are constitutionally recognized as units of self-government.

3) The impugned G.Os. are violative of Article 371-D of the Constitution and the Presidential Order made thereunder and the provisions of the Andhra Pradesh Districts (Formation) Act, 1974 (for short, 'the 1974 Act').

4) Sections 3 and 679-D of the 1955 Act and Sections 3-A and 62 of the 1965 Act are ultra vires the provisions of the Constitution.

In the affidavits filed by Smt.Yasmin Sultana (Arshiya) (petitioner No.4 in Writ Petition No.17524 of 2005 and
Shri Asaduddin Owaisi (petitioner in Writ Petition No.17525 of 2005), the deponents have generally averred that the term of 12 Municipalities and Gram Panchayats, which are sought to be merged in Greater Hyderabad Municipal Corporation, had ended in the month of March

and August 2005 respectively and as per the mandate of Article 243U and 243K, elections were to be held before the expiry of their term, but the State Election Commission did not take steps in that direction and thereby enabled the State Government to manipulate the appointment of Special Officer in utter violation of the scheme of the provisions contained in

Parts IX and IX-A of the Constitution. The deponents have further averred that even though the elected body of Hyderabad Municipal Corporation will complete its five years term after 20 months, the State Government is taking active steps to dissolve it by resorting to Section 679-D of the 1955 Act and if that happens, the elected representatives will be deprived of their legitimate right to hold office for full five years. In his affidavit, Shri Asaduddin Owaisi has referred to the case of Ramachandrapuram, which was till recently a Gram Panchayat and was sought to be converted into Municipality in violation of the mandate of Article 243E and averred that now the same is being abolished by way of merger in Greater Hyderabad Municipal Corporation. In paras 10 and 16 of his affidavit, Shri Owaisi has highlighted the disadvantages and adverse impact of the creation of the Greater Hyderabad Municipal Corporation in the following words:

> "10. I submit that the proposed Greater Hyderabad would result in threefold enhancement of taxes with no corresponding enhanced or increased civic amenities. The resultant problems by this creation of Greater Hyderabad are as follows:
>
> There is an opinion being expressed that

in view of Greater Hyderabad the burden of taxes on the people living in Panchayats and Municipalities will definitely be more. In fact, there are different procedures being adopted for property tax assessment in corporations, municipalities and panchayats. There is no similarity among these three. Moreover, there are differences in assessment of property tax among these three. In panchayats on the basis of unit, property tax is being assessed. In municipalities, tax is ascertained on the basis of square metre. In corporations, tax is collected based on square foot. In municipalities, based on the areas tax is being collected from Rs.9 to Rs.11 per square metre. In Pancyahats, based on the units property tax is being collected fixing rates for old constructions and new constructions separately. The same is being collected in corporations from Rs.0.60 to Rs.1 per sft. Even in this, separate rates are fixed for residential constructions and commercial purposes. If the municipalities and panchayats come under the purview of the proposed Greater Hyderabad Municipal Corporation, it will be required to implement uniform property tax system. Even the authorities are in agreement that there will be a burden on the people living in the areas of panchayats and municipalities because of creation of this Greater Hyderabad. Because of this creation of Greater Hyderabad, tax burden will be more from three to four times of the existing panchayat and municipal property taxes. Owing to the creation of Greater Hyderabad, there will be every chance of burdening the people living in existing panchayat and municipal areas with higher water tax. Further, there are sufficient

doubts about providing drinking water to all the people with the present supply position of the water.

16. I submit that being part of Greater Hyderabad would mean more taxes for residents of the existing 12 municipalities as well as Hyderabad Municipal Corporation. These residents would have to pay more professional tax, trade licence fees, town planning fees, betterment charges and new taxes such as impact fees. The property tax would also go up steeply. The registration charges and stamp fees would also go up steeply since the market values in the Greater Hyderabad limits would be revised upwards by leaps and bounds. The residents would end up paying more taxes and revenues for inadequate or non-existent civic amenities and facilities.

I submit that Greater Hyderabad would be spread over an area of 725 sq. kms. with a population of 55 lakh (as per 2001 census) as against the existing Hyderabad Municipal Corporation with an area of 172 sq. kms. and population of 36.12 lakh. Greater Hyderabad would bring A1 City and Mega City status to Hyderabad. This may mean not only a higher quantum of taxation, but also higher cost of living for the residents. The A1 City status would benefit the government employees in terms of city compensatory, house rent and dearness allowances but what about the common man?

In paragraphs 6 and 7 of his affidavit, Shri S.P. Singh, Secretary to Government in Municipal Administration and Urban Development Department has spelt out the reasons for the decision of the government to constitute Greater Hyderabad Municipal Corporation. These paragraphs are as under:

“6. I submit that Hyderabad metropolis has several diverse activities and functions to perform as State Capital, Educational, Research and Institutional Center, Defence Center, I.T. Center, Regional Center of Trade & Commerce, Industrial Center, Air Transit Hub, Cultural and Tourism Center and International Sports Hub. Such diverse and large scale activities have led to accelerated growth in many respects creating large scale employment opportunities which in turn has led to phenomenal growth in the population and resultant development of new residential areas within the Hyderabad Agglomeration. It is submitted that the population of Hyderabad Urban Agglomeration registered an increase of about 216% in the last 30 years, i.e. it rose from 18 lakhs in 1971 to about 57 lakhs in 2001, as per the Census. The Urban Agglomeration area increased from about 200 sq. kms. in 1971 to 778.17 sq. kms. in 2001. The population of Hyderabad Urban Agglomeration is expected to increase to 136 lakhs by 2021 with an overall average density of about 200 persons per acre. It is submitted that Hyderabad is one of the fastest growing Metropolitan Cities and accounts for 10% of IT exports in the country. At the same time, Hyderabad lags behind cities like Mumbai, Delhi, Chennai and Kolkata on economic infrastructure and social indicators. For example, the percentage of area covered by roads in Hyderabad is 6%, vis-à-vis Mumbai at 10%, Delhi at 18%, and Kolkata at 12%. Though Hyderabad is expected to be one of the top 10 Global Cities in terms of population by 2025, it lags behind several cities of developing countries. The growth rate of population is more prominent in the surrounding Municipalities, vis-à-vis the Municipal Corporation of Hyderabad area. For example, during 1981-2001, the population in MCH area grew at 19% as compared to the growth between 52% to 103% in

the surrounding Municipalities. Most of the residential and industrial developments during the last two decades have taken place in the surrounding municipal areas, but the pressure in terms of service delivery and on the administration is more on the MCH area. Further, I submit that infrastructure is a key driver for economic growth and quality of life. It is a critical component in making a city attractive and a safe place to live. However, the variation in water supply across the metropolis is alarming. The variation is in the range of 30% to 83% on the coverage front. While the water supply coverage is 83% within MCH area whereas in the surrounding Municipalities it varies from 30% to 50%. Water supply is delivered once in four days in few surrounding municipalities. The principal growth corridors around Hyderabad have lower water supply coverage. For example, Uppal Municipality with the highest growth rate has the lowest water supply coverage. The existing sewerage system covers only 62% of the MCH area, but in the surrounding Municipalities, mostly the sewerage and storm drain disposal is through open drains or on the land itself.

7. Further, I submit that the traffic growth in Hyderabad is driven by concentration of substantial economic activities around the MCH area, but the transportation infrastructure is very weak in the surrounding Municipalities leading to congestion and environmental problems. Hyderabad Agglomeration area is functionally and spatially fragmented resulting in significant institutional challenges, i.e. the current coordination arrangement is not comprehensive enough to achieve the service delivery improvements. The increase of population also resulted in attendant problems like intensity of land use, densification, pressure on housing, demands on the road network

and transportation systems, availability of water and efficiency of the system of disposal of sewage and solid waste. City level systems like major road network, water supply, sewerage and drainage system network, urban transport system, environment management system etc. cannot be done in an appropriate civic management structure with proper planning, resource mobilization and technical capabilities. I submit that the existing separate local bodies are unable to copy up with the above increased demands and because of multiplicity of agencies and non-alignment of accountability citizens are not able to relate to the service providing agencies. Therefore, it has become necessary to strengthen the civic administration by reorganizing the existing set up by having a single entity with a clear cut organizational structure to meet the challenges thrown up by fast pace of growth of Hyderabad and its urban spread and to manage in an integrated manner both the metropolitan and community level developmental needs. These challenges and roadblocks are not only relevant in Hyderabad, but every large city in India is experiencing similar challenges. In view of this, many States and Cities including international cities have attempted to overcome spatial and functional fragmentation by agglomerating the surrounding areas into the core city area. The constitution of Greater Hyderabad Municipal Corporation would ensure better accountability, synergy and coordination. Therefore, keeping in view the economic social and service delivery outcome gains, it is prudent to create Greater Hyderabad Municipal Corporation. Some of the immediate benefits include improvement in service delivery in surrounding areas, better inter-departmental coordination, minimizing functional fragmentation with single coordination and regulatory authority, better

resource mobilization, accountability and considerable internal efficiency and improvements leading to savings of tax payers money."

In paragraph 14 of his affidavit, Shri S.P. Singh has averred that final decision on the issue of creation of Greater Hyderabad Municipal Corporation will be taken after considering the views, suggestions and objections of the elected representatives and the members of public.

Shri S. Ramachandra Rao, Senior Advocate appearing for the petitioners in Writ Petition Nos.17524 and 17525 of 2006 made detailed reference of the scheme of Parts IX and IX-A of the Constitution and argued that the State Legislature is not competent to enact law for curtailing the tenure of the elected bodies of the Gram Panchayat and Municipalities, which are units of self-government and, therefore, Section 679-D of the 1955 Act, Section 62 of the 1965 Act and Section 250 of the 1994 Act are liable to be declared ultra vires the provisions of Articles 243K and 243U of the Constitution. Learned counsel submitted that dissolution of the elected bodies can be brought about only by a parliamentary legislation enacted in terms of Article 248 and as no such legislation has been made, the executive orders issued by the government for indirectly dissolving the elected body of Municipal Corporation of Hyderabad are liable to be quashed. Learned Senior Counsel further argued that the 1955 Act, 1965 Act and 1994 Act are subject to the constitutional limitations and, therefore,

if the provisions contained in Section 3 read with Section 679-D of the 1955 Act, Section 3-A read with Section 62 of the 1965 Act and Section 250 of the 1994 Act are read as empowering the State Government to dissolve duly elected Municipalities, then the same are liable to be declared ultra vires the provisions of Article 243U and 243E of the Constitution. He further argued that there is no provision in either of the three Acts under which the State Government can abolish the existing Municipalities and Gram Panchayats and, therefore, the G.Os. impugned in the writ petitions, which are in the nature of executive orders, are liable to be declared unconstitutional. Shri Ramachandra Rao then argued that there is no provision in the 1955 Act, 1965 Act and 1994 Act for constitution of new body or bodies without valid dissolution and, as such, the decision of the government to create Greater Hyderabad Municipal Corporation by indirectly dissolving 12 Municipalities and 8 Gram Panchayats is liable to be quashed. He further argued that failure of the State Election Commission to hold elections to 12 Municipalities and 8 Gram Panchayats before March and August 2005 respectively is liable to be castigated as unconstitutional. Learned Senior Counsel then submitted that municipal area can be changed only by a notification of the Governor and, in the absence of such notification, the proposed alteration of the limits of the existing Municipal Corporation of Hyderabad is legally impermissible. Learned counsel argued that the State cannot enlarge the city of Hyderabad and thereby create

a new and artificial definition of the city of Hyderabad. On the issue of violation of the provisions of the 1974 Act, learned counsel argued that the impugned G.Os. have the effect of altering the boundaries of Ranga Reddy District and this cannot be done without complying with the provisions of the 1974 Act. In support of his arguments, Shri S. Ramachandra Rao relied on the judgments of the Supreme Court in **Chief Justice of Andhra Pradesh v. L.V.A. Dikshitulu** [1], **Dr.C. Surekha v. Union of India** [2], **P. Sambamurthy v. State of Andhra Pradesh** [3], **S. Prakash Rao v. Commr. Of Commercial Taxes** [4], **Government of Andhra Pradesh v. A. Suryanarayana Rao** [5], **Saij Gram Panchayat v. State of Gujarat** [6], **Government of A.P. v. B. Satyanarayana Rao** [7], **V. Jagannadha Rao v. State of A.P.** [8], **Urban Improvement Trust v. Bheru Lal** [9], **State of Karnataka v. KGSD Canteen Employees' Welfare Association** [10], of this Court in **Dr.B.Sudhakar v. Union of India** [11], **Devarakonda Rajesh Babu v. Nizam Institute of Medical Sciences** [12], **G. Anantha Reddy v. Andhra Pradesh Admn. Tribunal** [13], **M. Kesavulu v. State of Andhra Pradesh** [14] and of the Bombay High Court in **BIMA Office Premises Co-op. Society v. Kalamboli Village**

Panchayat[15]. Another limb of the arguments of Shri Ramachandra Rao is that the impugned G.Os. are violative of the constitutional mandate enshrined in Article 371-D of the Constitution and the Presidential Order, 1975 because the same have the effect of carving out different local area for Hyderabad city, which is legally impermissible.

Shri C.V. Mohan Reddy, learned Advocate General argued that the provisions contained in Parts IX and IX-A of the Constitution are intended to ensure that there is local self-government for rural and urban areas in all parts of the country, but there is no bar to the change of the areas of local bodies or their character. He referred to Entry 5 of List II of the VII Schedule of the Constitution and argued that the State Legislature is competent to enact law for alteration of the boundaries of municipal area. Learned Advocate General referred to Article 243 (1) and (2) and argued that the Governor has the power to finally notify alteration of the boundaries of any municipal body and the petitioners are not entitled to complain against the merger of

12 Municipalities and 8 Gram Panchayats in the limits of the Municipal Corporation of Hyderabad on the ground that elections to these bodies have not been held as per the requirement of Articles 243K and 243U. He further argued that the impugned G.Os. are part of the legislative process and the same cannot be questioned by being described as executive fiat of the government. He then submitted that the provisions of Article 243K and

243U are not attracted in a case where the boundaries of existing Gram Panchayat or Municipality are changed or the same are merged with another Gram Panchayat or Municipality. In support of his arguments, the learned Advocate General relied on the decisions of the Supreme Court in **Sundarjas Kanyalal Bhatija v. Collector, Thane**[16] and **State of Maharastra v. Jalgaon Municipal Council**[17].

We have given our most anxious consideration to the entire matter. Before adverting to the arguments of the learned counsel, we deem it proper to make it clear that we are not adjudicating on the merits and demerits of the decision taken by the State Government to create Greater Hyderabad Municipal Corporation because objections raised by the elected representatives and members of public in the context of the G.Os. issued by the State Government are yet to be considered and decided and any expression of opinion by the Court on this aspect will be premature.

We shall now take up the constitutional and legal issues raised by the petitioners.

The first question which needs determination is whether Sections 3 and 679D of the 1955 Act, Sections 3-A and 62 of the 1965 Act, Section 250 of the 1994 Act and the two G.Os. are ultra vires the provisions of Parts IX and IX-A of the Constitution or the legislative power of the State. For this purpose, it will be useful to notice the relevant constitutional and statutory provisions:

The Constitution of India

243. Definitions

In this Part unless the context otherwise requires,-

... ...

(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under Art.243B, for the rural areas;

(e) "Panchayat area" means the territorial area of a Panchayat;

243B. Constitution of Panchayats:

(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in Cl. (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243E. Duration of Panchayats etc.

(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in Cl. (1).

(3) An election to constitute a Panchayat shall be completed-

(a) before the expiry of its duration specified in Cl. (1);

(b) before the expiration of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for

which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under Cl. (1) had it not been so dissolved.

243G. Powers, authority and responsibilities of Panchayats

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to-

(a) the preparation of plans for economic development and social justice,

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats:

The Legislature of a State may, by law,-
(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State: and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243I. Constitution of Finance Commission to review financial position:

(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to. or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the

composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243K. Elections of the Panchayats:

(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may, by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by

Cl. (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243P. Definitions.- In this Part, unless the context otherwise requires,-

(c) 'Metropolitan area' means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) 'Municipal area' means the territorial area of a Municipality as is notified by the Governor'

(e) 'Municipality' means an institution of self-government constituted under Article 243Q;

243Q. Constitution of Municipalities.- (1) There shall be constituted in every State,-

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area.

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, 'a transitional area', 'a smaller urban area' or 'a larger urban area' means such area as the Governor may, having regard to the population of the

area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non- agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243U. Duration of Municipalities, etc.- (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer;

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,-

(a) before the expiry of its duration specified in
clause (1);

(b) before the expiration of a period of six months from the date of its dissolution;

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1), had it not been so dissolved.

243W. Powers, authority and responsibilities of Municipalities, etc -

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow-

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. Power to impose taxes by, and Funds of, the Municipalities

The Legislature of a State may, by law,-

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits:

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all

moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243Y. Finance Commission

(1) The Finance Commission constituted under Art.243l shall also review the financial position of the Municipalities and make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by. the Municipalities;

(iii) the grant-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities,

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243ZF Continuance of existing laws and Municipalities

Notwithstanding anything in this Part, any

provision of any law relating to Municipalities in force in a State immediately
before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

248. Residuary powers of legislation

(1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

Entry 5 of List II – State List in VII Schedule

5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

<u>Hyderabad Municipal Corporation Act, 1955</u>

1. Short title, extent and commencement

... ...

(2) It extends to the cities of Hyderabad and

Secunderabad and shall come into force at once.

2. Definitions

In this Act unless there is anything repugnant in the subject or context,-

... ...

(6) "city" means the area declared by the State Government by notification to be the City of Hyderabad or the City of Secunderabad, as the case may be;

... ...

(9) "the Corporation" means the Municipal Corporation of the city;

... ...

(30) "local authority" includes Municipal Corporation, City and Town Municipalities, District Boards and Cantonment Board;

3. Constitution of Cities:

1) The areas included immediately before the commencement of this Act, in the Corporations of Hyderabad and Secunderabad shall respectively constitute the City of Hyderabad and the City of Secunderabad for the purposes of this Act:

Provided that nothing in this sub-section shall prevent the Government from establishing, with a view to secure efficiency and economy in the Municipal Administration, a single Corporation for Greater Hyderabad inclusive of the areas of two Cities aforesaid and the areas contiguous thereto on such terms and conditions as may be specified in a notification published in the Official Gazette in this behalf.

(2) Government may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette alter the limits of a City constituted under sub-section (1) so as to include therein or to exclude therefrom, the areas specified in the notification.

679D. Government's power to dissolve the Corporation.

(1) If, in the opinion of the Government, the Corporation is not competent to perform, or persistently, makes default in performing the duties imposed on it by or under this Act or any other law for the time being in force or exceeds or abuses its position or powers or a situation exists in which the municipal administration cannot be carried on in accordance with the provisions of this Act or the financial stability or credit of the Corporation is threatened, the Government may, by notification in the Andhra Pradesh Gazette, direct that the Corporation be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date not later than [six months] from the date of dissolution; and the notification shall be laid before the Legislative Assembly of the State.

(2)[* * *]

(3) For purposes of reconstitution of a dissolved Corporation under this Section, the vacancies in the office of all the elected Councillors shall be deemed to be [casual vacancies]

(4) Before publishing a notification under sub-section (1), the Government shall communicate to the Corporation the grounds on which they propose to do so fix a reasonable period for the Corporation to show cause against the proposal and consider its explanation or objections, if any, [and the mayor of the Corporation shall also be given a reasonable opportunity of being heard].

[* * *]

(5) On the date fixed for the dissolution of the Corporation under sub-section (1), all its Councillors including ex-officio Councillors as well as its Mayor, Deputy Mayor shall forthwith deemed to have vacated their offices as such.

(6) During the interval between the dissolution and reconstitution of the Corporation, all or any of the powers and functions of the Corporation and of its Mayor and of the Standing Committee may be exercised and performed as far as may be, and to such extent as the Government may determine, by such person as the Government may appoint in that behalf, and any person who is not a District Collector or Revenue Divisional Officer may, if the Government so direct, receive payment for his services from the municipal fund; the Government may determine the relations of such person with the District Controlling Officers and with themselves and the Government may direct the Commissioner to exercise and perform any powers and duties under this Act in addition to his own.

(7) The Members including the ex-officio Members of the reconstituted Corporation shall enter upon their office on the date fixed for its reconstitution and the term of office of the elected members shall continue only for the reminder of the period for which the dissolved Corporation would have continued had it not been dissolved].

(8) The Government may reconstitute the Corporation before the expiry of the period notified under sub-section (1) or sub-section (2).

Provided that where the reminder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any elections under this clause.

(9) When the Corporation is dissolved under this Section, the Government, until the date of the reconstitution thereof, and the reconstituted Corporation thereafter, shall be entitled to all the assets and be subject to all the liabilities of Corporation as on the date of the dissolution and on the date of the reconstitution

respectively.

The Andhra Pradesh Municipalities Act, 1965

3-A. Abolition of Municipalities:-

(1) The Government may, by notification, abolish any municipality to which this Act applies, wherein the opinion of the Government it is not financially sound or for such other reasons as may be recorded in writing:-

Provided that-

(a) The Government shall, before they issue such notification, communicate to the municipal council the grounds on which they propose to do so, fix a reasonable period for the municipal council to show cause against proposal and consider its explanations and objections, if any.

(b) The notification shall contain a statement of the reasons of the Government and shall be laid before the Andhra Pradesh Legislative Assembly.

(2) From such date as may be specified in such notification, the provisions of this Act and all notifications, rules, bye-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the municipality; the balance of the municipal fund and all other property vested in the municipal council and all its liabilities shall stand transferred to the Government or to such local or other authority or to such officer or other person as they may, by order, direct.

62. Government's power to dissolve the council:-

(1) If, in the opinion of the Government, a council is not competent to perform, or persistently makes default in performing, the duties imposed on it by or under this Act or any other law for the time being in force or exceeds or abuses its position or powers or a situation exists in which the municipal administration cannot be carried on in accordance with the provisions of this Act or the

financial stability or credit of the council is threatened, the Government may, by notification in the Andhra Pradesh Gazette, direct that the council be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date not later than six months from the date of dissolution; and the notification shall be laid before both Houses of the State Legislature.

(2) x x x

(3) For purposes of reconstitution of dissolved council under this section, the vacancies in the office of all the elected members shall be deemed to be casual vacancies.

(4) Before publishing a notification under sub-section (1), the Government shall communicate to the council concerned the grounds on which they propose to do so, fix a reasonable period for the council to show cause against the proposal and consider its explanations or objections, if any, and the Chairperson of the Municipality concerned shall also be given a reasonable opportunity of being heard.

(5) On the date fixed for the dissolution of the council under sub-section (1), all its members including ex-officio members as well as its Chairperson, and Vice-Chairperson shall forthwith be deemed to have vacated their offices as such.

(6) During the interval between the dissolution and the reconstitution of the council, all or any of the powers and functions of the council and of its Chairperson and Wards Committees and of the Committees referred to in Sections 43 and 47 may be exercised and performed, as far as may by, and to such extent as the Government may determine, be such person as the Government may appoint in that behalf, and any person who is not a District Collector or Revenue Divisional Officer may, if the Government so directs, receive payment for his

services from the municipal fund; the Government may determine the relations of such person with the District Controlling Officers and with themselves and the Government may direct the Commissioner to exercise and perform any powers and duties under this Act in addition to his own.

(7) The members including the ex-officio members of the reconstituted Council shall enter upon their office on the date fixed for its reconstitution and the term of office of the elected members shall continue only for the remainder of the period for which the dissolved Municipality would have continued had it not been dissolved.

(8) The Government may reconstitute the council before expiry of the period notified under sub-section (1) or sub-section (2).

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any elections under this clause for constituting the Municipality for such period.

(9) When a council is dissolved under this section, the Government, until the date of the reconstitution thereof, and the reconstituted council thereafter, shall be entitled to all the assets and be subject to all the liabilities of the council as on the date of the dissolution and on the date of the reconstitution respectively.

62-A. Appointment of Special Officer:-

(1) Notwithstanding anything contained in this Act, where in the opinion of the Government it is not possible to hold the elections to the municipalities in accordance with the provisions of this Act, before the date of expiration of the term, and to bring the newly elected members into office on the date of expiration of the term as aforesaid, the Government may, by notification appoint a Special Officer to exercise the powers, perform

the duties and discharge the functions of,--

(a) the Council;

(b) the Chairperson; and

(c) the Commissioner;

under the Act, for a period which shall not exceed six years from the date of such appointment;

Provided that the Government may, from time to time, by notification in the Andhra Pradesh Gazette and for reasons specified therein extend the said period of appointment of Special Officer beyond six years for a further period or periods, so however the period of appointment of the special officer shall not, in the aggregate exceed ten years or till the newly elected councils assume office which ever is earlier.

(2) The Government shall cause elections to be held to the municipality under the Principal Act, so that the newly elected members may come into office on such date as may be specified by the Government in this behalf by a notification, in the Andhra Pradesh Gazette:

Provided that the Government may, from time to time, advance or postpone the date specified under this sub-section and fix instead another date;

Provided further that the date fixed under this sub-section shall be the date on which the appointment of the Special Officer expires.

(3) The Special Officer shall exercise the powers, perform the duties and discharge the functions of the council until the elected members come into office, of the Chairperson until a Chairperson is elected, and of the Commissioner until a Commissioner is appointed by the Government and the committees referred to in Sections 43 and 74 until such committees are constituted, as the case may be and any such officer may, if the Government so direct, receive remuneration for his service from the municipal fund.

250. Powers of Government to dissolve Gram Panchayat, Mandal Parishad or Zilla Parishad.

(1) (i) If, at any time, it appears to the Government that a Gram Panchayat, Mandal Parishad or Zilla Parishad is not competent to perform its functions or has failed to exercise its powers or perform its functions or has exceeded or abused any of the powers conferred upon it by or under this Act, or any other law for the time being in force, the Government may direct the Gram Panchayat, Mandal Parishad or as the case may be, Zilla Parishad to remedy such incompetency, failure, excess or abuse or to give a satisfactory explanation therefor and if the Gram Panchayat, Mandal Parishad or Zilla Parishad fails to comply with such direction, the Government may dissolve it with effect from a specified date and reconstitute it either immediately or within six months from the date of dissolution, and cause any or all of the powers and functions of the Gram Panchayat, Mandal Parishad or Zilla Parishad to be exercised and performed by such person or authority as the Government may appoint in that behalf during the period of its dissolution and any person or authority so appointed may, if the Government so direct, receive remuneration for the services rendered from the funds of the Gram Panchayat, Mandal Parishad or the Zilla Parishad as the case may be.

(ii) With effect from the date specified for the dissolution of a Gram Panchayat, Mandal Parishad or Zilla Parishad under Clause (i), all its members including its Sarpanch, Upa Sarpanch, President or Vice President and Chairperson or Vice Chairperson, as the case may be, shall forthwith be deemed to have vacated their offices as such and they shall not be entitled to be restored to office after the expiration of the period of dissolution. The vacancies arising out of vacation of offices under this section shall be deemed to be casual vacancies and filled accordingly within a period of six months from the date of dissolution:

Provided that no casual elections to fill the

vacancies under this section shall be held where the remainder of the period for which the dissolved Gram Panchayat, Mandal Parishad or as the case may be, the Zilla Parishad would have continued had it not been dissolved is less than six months.

(2) The Government may, by notification, authorise the District Collector to exercise the powers of the Government under sub section (1) in respect of Gram Panchayats.

(3) If, at any time if appears to the Government that a Standing Committee of a Zilla Parishad is not competent to perform its functions or has failed to exercise its powers or perform its functions or has exceeded or abused any of the powers conferred upon it by or under this Act, or any other law for the time being in force, the Government may direct the Standing Committee to remedy such incompetency, failure, excess or abuse, or to give a satisfactory explanation therefor and if the Standing Committee fails to comply with such direction, the Government may dissolve the Standing Committee and direct the Zilla Parishad to reconstitute the dissolved Standing Committee immediately thereafter.

An analysis of the provisions of Parts IX and IX-A of the Constitution, which have been reproduced above, shows that the Panchayats and Municipal Bodies have been declared as units of self-government. Article 243 defines the term “Panchayat” as an institution of self-government constituted under Article 243B for the rural areas. Article 243B declares that there shall be constituted in every State, panchayats at the village, intermediate and district levels in accordance with the provisions of Part IX. Article 243E prescribes the tenure of the elected body of the Panchayats as five years unless

such body is dissolved under any law for the time being in force. The use of the expression "and no longer" appearing in Clauses (1) and (3) of Article 243E makes it clear that the elected body of the Panchayat cannot continue beyond five years and an election to constitute a new Panchayat is required to be completed before the expiry of five years period. Once a Panchayat is constituted in terms of Article 243B, its powers, authority and responsibilities are regulated by the law enacted by the State Legislature. In terms of Article 243H, the State Legislature can authorize a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees. Such law may also provide for assignment of taxes, duties, tolls and fees, which may be levied by the State Government, giving of grant-in-aid to the Panchayats from the Consolidated Fund of the State and also for constitution of funds for crediting of monies received by or on behalf of the Panchayats. Article 243-I envisages constitution of Finance Commission to review financial position of the Panchayats and to make recommendations to the Governor in relation to the matters specified in that article. Article 243K declares that the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayat shall be vested in a State Election Commission.

Article 243P (e) defines the 'Municipality' as an institution of self-government constituted under Article 243Q. Clause (1) of Article 243Q lays down that there

shall be constituted in every State a Nagar Panchayat for a transitional area i.e. an area in transition from a rural area to an urban area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area. Articles 243, 243W, 243X and 243Y are pari materia to the provisions contained in Article 243E, 243G, 243H and 243-I of Part IX. Article 243ZF provides for continuance of the existing laws and Municipality for a maximum period of one year from the date of commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which was brought into force with effect from 1-6-1993.

The above noted provisions have been incorporated in the Constitution to ensure that there is a local self-government for rural and urban areas in all parts of the State, big or small. The Panchayats and Municipalities have been conferred the status of the units of self-government to make them more responsive to the people of area and to shoulder the responsibility of governance at the grassroot. By fixing the tenure of the elected bodies of Panchayats and Municipalities and simultaneously making a provision for holding election before the expiry of five years tenure, the Parliament ensured that the political and bureaucratic apparatus of the States are not able to misuse the legislative instrument enacted by the State Legislature under Entry 5 of
List II of the VII Schedule for continuing any elected body beyond a period of five years or imposing an Executive

Officer on the people of the urban or rural areas. The mandatory character of the provisions contained in Article 243U was highlighted by the Supreme Court in **Kishansing Tomar v. Municipal Corpn. of the City o f Ahmedabad**[18]. In that judgment, the Supreme Court explained the object of introducing Part IX-A of the Constitution in the following words:

> "The object of introducing these provisions was that in many States the local bodies were not working properly and the timely elections were not being held and the nominated bodies were continuing for long periods. Elections had been irregular and many times unnecessarily delayed or postponed and the elected bodies had been superseded or suspended without adequate justification at the whims and fancies of the State authorities. The new provisions were added in the Constitution with a view to restore the rightful place in political governance for local bodies. It was considered necessary to provide a constitutional status to such bodies and to ensure regular and fair conduct of elections. The effect of Article 243-U of the Constitution is to be appreciated in the above background."

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The Supreme Court then proceeded to lay down the following propositions:

> 1) An analysis of Article 243-U yields the result that in any case, the duration of the municipality is fixed as five years from the date of its first meeting and no longer. It is incumbent upon the Election Commission and other authorities to carry out the mandate of the Constitution and to see that a new municipality is constituted in time and elections to the municipality are conducted before the expiry of its duration of five years as specified in Article 243-

U(1). Going by the provisions contained in Article 243-U, it is clear that the period of five years fixed thereunder to constitute the municipality is mandatory in nature and has to be followed in all respects. It is only when the municipality is dissolved for any other reason and the remainder of the period for which the dissolved municipality would have continued is less than six months, it shall not be necessary to hold any elections for constituting the municipality for such period.

2) The State Election Commission shall not put forward any excuse based on unreasonable grounds that the election could not be completed in time. The Election Commission shall try to complete the election before the expiration of the duration of five years' period as stipulated and not yield to situations that may be created by vested interests to postpone elections from being held within the stipulated time. Any revision of electoral rolls shall be carried out in time and if it cannot be carried out within a reasonable time, the election has to be conducted on the basis of the then existing electoral rolls.

3) The entire provision in the Constitution was inserted to see that there should not be any delay in the constitution of the new municipality every five years and in order to avoid the mischief of delaying the process of election and allowing the nominated bodies to continue, the provisions have been suitably added to the Constitution. In this direction, it is necessary for all the State Governments to recognise the significance of the State Election Commission, which is a constitutional body and it shall abide by the directions of the Commission in the same manner in which it follows the directions of the Election Commission of India during the elections for

Parliament and the State Legislatures. In fact, in the domain of elections to the panchayats and the municipal bodies under Part IX and Part IX-A for the conduct of the elections to these bodies the State Election Commissions enjoy the same status as the Election Commission of India.

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The above analysis and elucidation of the provisions of

Parts IX and IX-A, however, does not help the cause of the petitioners because there is nothing in the scheme of those provisions from which it can be inferred that the boundaries or area of Panchayat constituted under Article 243B or a Municipality constituted under Article 243Q is to remain static for all times to come and the same cannot be altered under any circumstance or situation. Rather, a careful reading of Article 243Q makes it clear that the area for which a Nagar Panchayat, Municipal Council or a Municipal Corporation is constituted may undergo a change. The character of the body may also be altered having regard to the population of the area, the revenue generated for local administration, percentage of employment in non-agricultural activities etc. These provisions also do not inhibit the State Legislature from enacting law under Entry 5 of List II of the

VII Schedule for change of the boundaries or area of a unit of self-government/local body like Municipal Corporation, City and Town Municipality, District Board, Cantonment Board etc. Therefore, Section 3 of the 1955 Act and Section 3-A of the 1965 Act cannot per se be

regarded as ultra vires the provisions contained in Parts IX and IX-A of the Constitution.

Section 2 (6) of the 1955 Act defines the term “city” to mean that the area declared by the State Government by notification to be the “City of Hyderabad” or the “City of Secunderabad”. The substantive part of Section 3 (1) of that Act declares that the areas included immediately before the commencement of the Act in the Corporations of Hyderabad and Secunderabad shall respectively constitute the City of Hyderabad and the City of Secunderabad. Proviso thereto empowers the government to establish a single Corporation for Greater Hyderabad, which may include the areas of two cities i.e. the Cities of Hyderabad and Secunderabad and the area contiguous thereto. Sub-section (2) of Section 3 specifically empowers the government to alter the limits of a city constituted under sub-section (1) by way of inclusion therein or exclusion therefrom the areas specified in the notification. Section 3-A of the 1965 Act provide for abolition of the Municipalities. This power can be exercised by the government where any Municipality is not financially sound or there exist other reasons to be recorded in writing.

In our opinion, Section 3 of the 1955 Act, which empowers the State Government to alter the limits of the city of Hyderabad by including therein or excluding therefrom the areas specified in the notification issued under sub-section (2) and as also the power to create a single Corporation for Greater Hyderabad by merging the

areas of the cities of Secunderabad and Hyderabad and the area contiguous thereto, neither offends any provisions of the Constitution nor it is ultra vires the legislative power of the State and Article 248, which confers power on the Parliament to make any law with respect to any matter not enumerated in the Concurrent List or State List cannot be pressed into service for holding that the Parliament alone has the power to make law for dissolution of the Panchayat or Municipality constituted under Article 243B or Article 243Q. If Section 3-A of the 1965 Act is read in conjunction with Section 3 of the 1955 Act, it becomes clear that for the purpose of altering the limits of the city of Hyderabad and for establishing a single Corporation for Greater Hyderabad, the State Government can, after complying with the procedural requirements, abolish the Municipality constituted for an urban area which is contiguous to the areas of the cities of Hyderabad and Secunderabad and such an exercise would fall within the ambit of the expression “or for other reasons as may be recorded in writing” appearing in Section 3-A of the 1965 Act.

The argument of Shri S. Ramachandra Rao that the provisions of Section 679D of the 1955 Act, Section 62 of the 1965 Act and Section 250 of the 1994 Act, which empowers the government to dissolve the Corporation, Municipal Council or Panchayat, are ultra vires the provisions of Parts IX and IX-A of the Constitution of India sounds attractive, but on a closure scrutiny, we do not

find any merit in it. These provisions envisage dissolution of the Corporation, Municipal Council and Panchayat if any of such body is found to be not competent to perform its duties or persistently defaults in performing the duties imposed on it by or under the relevant Act or any other law for the time being in force or there is a case of abuse of powers or where the government is satisfied that the Municipal Administration cannot be carried on in accordance with the provisions of the particular Act or the financial stability or credit of the Municipal Corporation or Council is under threat. All these provisions are punitive in character and have nothing to do with the alteration of the boundaries of the existing Corporation or abolition of the Municipal Council in terms of Section 3 (2) of the 1955 Act or Section 3-A of the 1965 Act. Rather, these provisions are referable to the opening words of Articles 243E and 243U (1), which speaks of the dissolution of Panchayat or Municipality under the statute enacted by the competent legislature. In any case, we do not find it necessary to finally pronounce on the constitutionality or otherwise of
Section 679D of the 1955 Act, Section 62 of the 1965 Act and Section 250 of the 1994 Act because that issue does not have any direct bearing on the decision of these writ petitions.

We shall now deal with the ancillary question whether non-holding of elections to 8 Gram Panchayats and 12 Municipalities can be termed as failure of the

State Election Commission to discharge its constitutional obligation in terms of Articles 243K (3) and 243U (3) and whether the appointment of Special Officers /Executive Authorities to manage the affairs of the Municipalities and Gram Panchayats suffer from any constitutional or legal vice. Though the provisions of Articles 243K and 243U are mandatory in nature { **Kishansing Tomar v. Municipal Corpn. of the City of Ahmedabad** (supra) }, the question raised by the petitioners is liable to be answered in negative in view of the judgment of the Supreme Court in **State of Maharashtra v. Jalgaon Municipal Council** (supra). In that case, the Supreme Court considered the question whether the decision of the State Government to convert the constitution of Jalgaon City from Municipal Council into a Municipal Corporation was violative of Article 243U of the Constitution. A Division Bench of the Bombay High Court quashed the notification/proclamation issued by the State Government for creating Jalgaon Municipal Corporation. One of the arguments which found favour with the High Court was that the constitutional scheme of Part IX-A contemplates the Municipal Council being taken over and succeeded by a Municipal Corporation without any hiatus in-between and as the term of the then existing Municipal Council was coming to an end on 16-12-2001, the State Government/State Election Commission should have taken steps for constitution of new Municipal Corporation so as to be in place and in

existence, ready to take over from the Municipal Council as its successor and this was subversive of Part IX-A of the Constitution. The High Court also took the view that the hiatus would result in appointment of an administrator which is not envisaged by the Constitution. While reversing the judgment of the High Court, the Supreme Court observed:

> "The use of expression 'a municipality' in sub-Article (3) of Article 243-U in the context and in the setting in which it is employed suggests and means the duration of the same type of municipality coming to an end and the same type of successor municipality taking over as a consequence of term of the previous municipality coming to an end. Article 243-U cannot be applied to a case where the area of one description is converted into an area of another description and one description of municipality is ceased by constituting another municipality of a better description. Article 243-U(3) cannot be pressed into service to base a submission on that an election to constitute a Municipal Corporation is required to be completed before the expiry of duration of a Municipal Council.
>
> The constitution of Municipal Corporation would require notification of larger urban area and a Municipal Corporation to govern it. The area shall have to be devided into wards with the number of corporators specified and reservations made. The Corporation would need to nominate Councillors. The territorial limits may need to be altered. The State Election Commission cannot conduct election without specifying numbers and boundaries of wards. New rules, bye-laws etc. shall need to be framed and municipal tax structure may need to be recast. The statutory provisions do not contemplate a situation where the same area may be called a

smaller and larger area simultaneously and process of constitution of Municipal Corporation being commenced and completed though the Municipal Council continues to exit."

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The Supreme Court also allayed the apprehension of the petitioner that the administrator appointed under Section 452-A of the Bombay Provincial Municipal Corporations Act, 1995 may continue for indefinite period and observed:

> "We do not see any merit in the submission that the Administrator once appointed shall continue to stretch and unreasonably extend his term of office and may be instrumental in obstructing the elections being held. The law does not permit holding of an office as an Administrator by any officer/officers beyond the first meeting of the Corporation or a period of six months from the date of specification of an area as a larger urban area. Thus, the maximum period for which an Administrator may be in office shall be six months and within this much period the State Government and the State Election Commission shall positively bring the Municipal Corporation in existence so as to take over the administration from the Administrator."

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By applying the ratio of the above noted judgment to the cases in hand, we hold that omission of the State Election Commission to hold elections for 12 Municipalities and

8 Gram Panchayats and appointment of Special Officers/Executive Authorities has not resulted in violation of Articles 243K (3) and 243U (3) of the Constitution.

The next question which merits consideration is whether the impugned G.Os. are violative of Article 371D of the Constitution and the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (for short, 'the 1975 Order').

The argument of Shri S. Ramachandra Rao is that the term "City of Hyderabad" cannot have different meanings for the purposes of Article 243Q and Para 2 (1) (a) of the 1975 Order. He further argued that the local area of the City of Hyderabad cannot be changed unless the 1975 Order is amended.

In our opinion, there is no merit in the argument of the learned counsel. Clauses (1), (2) and (10) of Article 371D and

Para 2 (1) (a) and (c) of the 1975 Order on which reliance has been placed by the learned counsel read as under:

Clauses (1), (2) and (10) of Article 371D of the Constitution of India:

371D. Special provisions with respect to the State of Andhra Pradesh

(1) The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.

(2) An order made under Cl. (1) may, in particular,-

(a) require the State Government to organise any class or classes of posts in a civil service of, or any

class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organised;

(b) specify any part or parts of the State which shall be regarded as the local area-

(i) for direct recruitment to posts in any local cadre (whether organised in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which, preference or reservation shall be given or made-

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order;

(ii) in the matter of admission to any such University or other educational institution referred to in sub-clause (b) as may be specified in this behalf in the order,

to or in favour of candidates who have resided or studied for any period specified in the order in the local area in respect of such cadre, University or other educational institution, as the case may be.

... ...

(10) The provisions of this article and of any order made by the President thereunder shall have effect

notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

Para 2 (1) (a) and (c) of the 1975 Order

Para 2. Interpretation:

(1) In this Order, unless the context otherwise requires --

(a) **'City of Hyderabad'** means the part of the State comprising the territories specified in the First Schedule; (The territorial jurisdiction in respect of the posts belonging to the Department of School Education shall be the Revenue District of Hyderabad)

… … …

(c) **'Local area'** in relation to any local cadre, means the local area specified in Paragraph 6 for direct recruitment to posts in such local cadre and includes, in respect of posts belonging to the category of Civil Assistant Surgeons, the local area specified in sub-paragraph (5) of Paragraph 8 of this Order;

Article 371-D was inserted in the Constitution by the Constitution (Thirty-second Amendment) Act, 1973 for giving equitable opportunities and facilities to the people belonging to different parts of the State in the matter of public employment and education. With a view to ensure that the provisions contained in the 1973 Order under Clauses (1) and (2) of Article 371D are not subverted or bypassed by the political or executive apparatus of the State, overriding effect was given to the same. This has been recognised in a catena of decisions of this Court and the Supreme Court. The term "City of Hyderabad" has been defined in

Para 2 (1)(a) of the 1975 Order as the part of the State

comprising the territories specified in the First Schedule. Entry 1 of the First Schedule appended to the 1975 Order refers to Hyderabad Municipal Corporation area i.e. Hyderabad Division and Secunderabad Division. If the constitution of Greater Hyderabad Municipal Corporation is formalised, it would necessarily include the areas of Hyderabad Division and Secunderabad Division and will in no way adversely affect the existing territories of the City of Hyderabad. Likewise, it will have no adverse impact on the term "local area". There may have been some merit in the argument of the learned Senior Counsel if the territory of the City of Hyderabad
had been reduced or the "local area" as defined in Para 2 (1)(c) read with Para 6 of the 1975 Order had been altered. However, the fact of the matter is that the proposed constitution of Greater Hyderabad Municipal Corporation would only result in enlarging the territory of the City of Hyderabad as well as the local area and the existing territory/area will merge in the larger territory/area. Therefore, the two G.Os. cannot be declared ultra vires the provisions of Article 371D or the 1975 Order.

The question which remains to be examined is whether the impugned G.Os. are violative of Section 3 of the Andhra Pradesh Districts (Formation) Act, 1974.

According to the learned Senior Counsel appearing for the petitioners, change of the district can be brought about only after complying with the procedure prescribed

under Section 3 of the 1974 Act and not otherwise. He submitted that the boundaries of Ranga Reddy District are sought to be altered without following the procedure prescribed in Section 3 and, therefore, the impugned G.Os. are liable to be declared ultra vires Section 3 of the 1974 Act.

Section 3 (1) and (2) of the 1974 Act read as under:

3. Division of State into districts, formation of new districts and alteration of areas, boundaries or names of existing districts:-

(1) The Government may, by notification, from time to time, for the purposes of revenue administration, divide the State into such districts with such limits as may be specified therein; and each district shall consist of such revenue divisions and each revenue division shall consist of such Mandals and each Mandal shall consist of such villages as the Government may, by notification from time to time, specify in this behalf.

(2) The Government may, in the interests of better administration and development of the areas, by notification, from time to time, and with effect on and from such date as may be specified
therein –

a) from a new district, revenue division or Mandal by separation of area from any district, revenue division or Mandal or by uniting two or more districts, revenue divisions or Mandal or parts thereof or by uniting any area to a district, revenue division or Mandal or part thereof;

b) increase the area of any district, revenue division or Mandal;

c) diminish the area of any district, revenue division or Mandal;

d) alter the boundaries of any district, revenue division or Mandal;

e) alter the name of any district, revenue division or Mandal;

A reading of the above reproduced provisions make it clear that the same envisage division of the State into districts for the purpose of revenue administration and not for other purposes. Section 3 of the 1974 Act empowers the government to issue notification for dividing the State into districts for the purpose of revenue administration and also increase, diminish or alter the area of any district or change the name of any district or revenue division. The inclusion of some of the Municipalities which now fall within the area of Ranga Reddy District will have no effect on the boundaries of the revenue district for the purposes of the 1974 Act. Therefore, the decision contained in the impugned G.Os. cannot be annulled on the ground of violation of Section 3 of the 1974 Act.

We may now advert to the judgments relied on by Shri S. Ramachandra Rao.

In **Chief Justice of Andhra Pradesh v. L.V.A. Dikshitulu** (1 supra), the Supreme Court primarily interpreted Articles 229 and 235 of the Constitution which relate to the power of the Chief Justice in the matter of appointment of personnel of the High Court and control of the High Court over subordinate judiciary. Their Lordships referred to Article 371D (3) of the Constitution

for the limited purpose of deciding whether an employee of the High Court can file application under the Andhra Pradesh Administrative Tribunal Order, 1975 and answered the same in negative.

In **S. Prakasha Rao v. Commr. of Commercial Taxes** (4 supra), the Supreme Court interpreted Article 371D and held that the respondent was not entitled to prepare divisional seniority of the staff appointed in the local area comprising of Warangal, Khammam, Karimnagar and Adilabad Districts.

In **Government of Andhra Pradesh v. A. Suryanarayana Rao** (5 supra), the Supreme Court held that Junior Engineers belonging to A.P. Panchayat Raj Engineering Service cannot be promoted as Assistant Engineers on the basis of State-wide seniority because that would be contrary to the object of the 1975 Order issued for promoting speedy development of backward areas.

In **Saij Gram Panchayat v. State of Gujarat** (6 supra), the Supreme Court interpreted Article 243Q of the Constitution and held that exclusion of an industrial area developed under Gujarat Development Act from Gram Panchayat and declaring the same as an industrial area under Section 264-A of the Gujarat Municipalities Act, 1964 does not suffer from any infirmity. Their Lordships further held that the notification issued under Section 16 of the Gujarat Industrial Development Act, 1962 declaring industrial area as notified area is not

contrary to Parts IX and IX-A of the Constitution.

In **Urban Improvement Trust v. Bheru Lal** (9 supra), the Supreme Court examined the legality of the acquisition made by Urban Improvement Trust, Udaipur and upheld the same.

In **Devarakonda Rajesh Babu v. Nizam Institute of Medical Sciences** (12 supra), a Full Bench of this Court held that the area of reservation provided in the Presidential Order would prevail over class reservations envisaged in Articles 15 (4) and
16 (4) and the roster for class reservation must be confined to the areas for which reservation is provided under the Presidential Order.

In **M.Kesavulu v. State of Andhra Pradesh** (14 supra), a Division Bench of this Court quashed G.O.Ms.No.538, dated
20-11-1998 on the ground of violation of the Presidential Order.

In our opinion, none of the above judgments except the judgment in **Saij Gram Panchayat v. State of Gujarat** (6 supra) has no bearing on the decision of these petitions and the observations of the Supreme Court in **Saij Gram Panchayat v. State of Gujarat** (6 supra) instead of supporting the cause of the petitioners, goes against them.

On the basis of the above discussion, we hold that the proposed constitution of Greater Hyderabad Municipal Corporation is not ultra vires the provisions of the Constitution and Sections 3 and 679-D of the 1955 Act

and Sections 3 and 62 of the 1965 Act do not suffer from any constitutional infirmity. However, we do not find the slightest hesitation to observe that before taking final decision for creation of Greater Hyderabad Municipal Corporation, the State Government will duly consider the objections raised by the petitioners and other persons and then pass appropriate order. In order to obviate any grievance of the petitioners, we deem it proper to give them opportunity to file additional objections within a period of 15 days from today and direct the State Government to consider the same before finally deciding the issue of Greater Hyderabad Municipal Corporation.

With the above observations, the writ petitions are dismissed.

G.S.SINGHVI, CJ

January , 2007.

C.V.NAGARJUNA REDDY, J

svs

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[1] AIR 1979 SC 193
[2] AIR 1989 SC 44
[3] (1987) 1 SCC 362
[4] AIR 1990 SC 997
[5] AIR 1991 SC 2113
[6] (1999) 2 SCC 366
[7] (2000) 4 SCC 262
[8] (2001) 10 SCC 401
[9] (2002) 7 SCC 712
[10] (2006) 1 SCC 567
[11] AIR 1995 AP 86

[12] AIR 1998 AP 162
[13] 2002 (1) ALD 4
[14] 2003 (6) ALD 522
[15] AIR 2001 Bombay 83
[16] (1989) 3 SCC 396
[17] AIR 2003 SC 1659
[18] (2006) 8 SCC 352